REMARKS

This is in response to the final Office Action mailed January 30, 2008. Claims 11-13 are pending and rejected; claims 1-10 are cancelled. The Applicants herein amend claim 11. Support for the amendments may be found in the Applicants' specification on page 7, lines 4-6.

In view of the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

Applicants traverse all of the rejections in the non-final Office Action and respectfully request reconsideration and passage of the claims to allowance for the following reasons.

REJECTION OF CLAIMS 11-13 UNDER 35 U.S.C. §103

Claim 11

The Examiner has rejected claim 11 under 35 U.S.C. §103 as being unpatentable over Hendricks et al. (5,600,573, hereinafter "Hendricks") in view of Kenner et al. (5,956,716, hereinafter "Kenner"), Campanella (5,864,546, hereinafter "Campanella") and Farry et al. (5,608,447, hereinafter "Farry").

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Thus, it is impermissible to focus either on the "gist" or "core" of the invention, Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 USPQ 416, 420 (Fed. Cir. 1986) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6

USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). The combination of Hendricks, Kenner, Campanella and Farry fails to teach or suggest Applicant's invention as a whole.

Claim 11 recites:

> 11. A method for acquiring and delivering content, comprising:
> receiving a content search request from a user terminal;
> providing a plurality of content associated with said content search request to a user via a numeric television channel selectable by a user;
> receiving a content download request from said user terminal, wherein a content of said content download request is one of said plurality of content found in response to said content search request;
> determining if the request is a local download request or a remote download request;
> if the request is a remote download request, determining if the content is to be delivered directly or indirectly, wherein directly delivering content comprises providing the content to the user terminal without traversing any modules between a remote content server and the user terminal, thereby bypassing an aggregator; and
> if the content is to be delivered directly:
> establishing a communications link from the remote content server to the user terminal, thereby bypassing an aggregator,
> forwarding the requested content toward the user terminal via said television channel,
> validating the delivery of the content to the user terminal, and
> logging the validated delivery in one of a local server database and a remote server database.

The Applicants note the Examiner's response in the Final Office Action. In response, the Applicants herein amend claim 11. In view of the amendments, the Applicants respectfully submit that Hendricks, Kenner, Campanella and Farry, alone or in any permissible combination, fail to teach or suggest providing a plurality of content associated with said content search request to a user via a numeric television channel selectable by a user. In one embodiment, the Applicants' invention utilizes the television channels of a cable television system to provide and deliver content that is searched for. (See e.g., Applicants' specification, p. 7, ll. 4-6). The Applicants submit that none of the prior art on record teaches the above novel limitation.

Therefore, because not all the limitations of claim 11 are taught or suggested, for at least the above reasons, Applicants submit that independent claim 11 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Therefore, Applicants respectfully request that the rejection be withdrawn.

Claims 12-13

The Examiner has rejected claims 12-13 under 35 U.S.C. §103(a) as being unpatentable over Hendricks, Kenner, Campanella and Farry as applied to claim 11 above, and further in view of Wilkins (5,446,919, hereinafter "Wilkins").

Each of the grounds of rejection applies only to dependent claims, and each is predicated on the validity of the rejection under 35 U.S.C. §103 for independent claim 11. Since the rejection of the independent claim 11 under 35 U.S.C. §103 has been overcome, as described hereinabove, and there is no argument set forth by the Office Action that any other additional references supply that which is missing from Hendricks, Kenner, Campanella and Farry to render the independent claim 11 unpatentable, these grounds of rejection cannot be maintained. Accordingly, these dependent claims also are non-obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder.

Therefore, Applicants respectfully request that the rejection be withdrawn.

CONCLUSION

Thus, Applicants respectfully submit the pending claims are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 3/31/08

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